



3. This Court issued an Order on 10/11/06 allowing the parties 60 days to consummate the settlement agreement formed on 10/10/06, which the money portion of the settlement was for \$150,000.00.

4. Counsel for plaintiff contacted opposing counsel and inquired when she could expect payment of the money portion of the settlement.

5. Opposing counsel advised that the insurance company was processing the check and it should arrive shortly.

6. Opposing counsel then called back and stated that the check was not being processed because the insurance company wanted the transcript of settlement terms which the parties agreed to on 10/10/06.

7. As a courtesy to opposing counsel, Plaintiff's counsel contacted the court reporter on 11/15/06, and the court reporter, Diana Gilbride, was gracious enough to provide me with a copy of the transcript that same day.

8. Plaintiff's counsel provided the same to opposing counsel, but yet, to date, Defendants have not provided the agreed upon amount. (See Exhibit "B").

9. Plaintiff's counsel is set for trial on Monday, December 4, 2006 in *Wiorkowski v. Head & Neck, et al*, Lackawanna County Docket No. 01-CIV-5716, and files this Motion to make sure the Court is aware of the

situation, and unfortunately, Plaintiff's counsel cannot wait until the last moment to file this request due to the *Wiorkowski* trial.

10. Moreover, Defendants paid the Court on 11/28/06; however, still have failed to pay the Plaintiff.

**WHEREFORE**, Plaintiff Herrington by her counsel respectfully requests this Court open the instant matter and enforce the settlement, or alternatively, schedule trial.

By: /s Cynthia L Pollick  
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**CERTIFICATE OF SERVICE**

Cynthia L Pollick, Esquire, hereby certifies that on December 1, 2006, she served a copy of Plaintiff's Motion to Re-Open Case on Defendants by serving a copy thereof via Electronically on their attorney:

Ms. Sharon O'Donnell, Esquire  
Marshall, Dennehey, Warner, Coleman & Goggin  
4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112

s/ Cynthia L. Pollick  
Cynthia L. Pollick, Esquire